

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

TAX WRIT PETITION NO. 3191 OF 2004

R. C. Goenka

Petitioner

vs.

1. Union of India & ors.

Respondents

Mr. Shyam Diwan i/b. Mr. Y.R. Shah for the petitioner.

Mr. R.V. Desai, senior counsel with Ms. S.V. Bharucha for the respondents 1 and 2.

Mr. Virag Tulzapurkar along with i/b. M/s. M & M Legal Venture for the respondent no. 3.

**CORAM : R. M. LODHA &
J.P. DEVADHAR, JJ.**

DATED : 16th December 2004

P.C.

Heard Mr. Shyam Diwan, the learned counsel for the petitioner and Mr. R.V. Desai, the learned senior counsel for the revenue.

2. It appears that the petitioner has already made a representation to the Tax Recovery Officer no. 16(2), Mumbai against the attachment of membership right of late Shri C.S. Goenka being clearing no. 82. The representation having already been made, we are of the view that the merits of the contentions raised in the writ petition need not be examined by us and the

interest of justice shall be subserved if the concerned authority hears the petitioner as well as the respondents 4 and 5 herein and pass an appropriate order with regard to attachment of membership right of late Shri C.S.Goenka.

3. We, accordingly, dispose of the writ petition by the following order:

(i) The Tax Recovery Officer No.16(2), Mumbai is directed to hear the petitioner and the respondents 4 and 5 and decide the representation made by the petitioner for raising the attachment of the membership right of late Shri C.S.Goenka being clearing no.82 of Stock Exchange, Mumbai.

(ii) The petitioner and the respondents 4 and 5 are directed to appear before the Tax Recovery Officer No.16(2), Mumbai on 14th January 2005 and the concerned authority, after hearing the aforesaid parties dispose of the representation by speaking order within two months from the date of appearance of the parties.

(iii) All contentions of the parties are kept

open to be agitated in the subsequent proceedings, if necessary.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)